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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,678	07/30/2001	Hideki Matsuda	110228	9835

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

LUU, MATTHEW

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 04/28/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/916,678

Applicant(s)

MATSUDA, HIDEKI

Examiner

LUU MATTHEW

Art Unit

2672

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6&8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101, which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-7 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-2 and 5-9 of copending Application No. 10/201,775. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Case No. 09/916,678

Claim 1:

An environment-compliant image display system which corrects an image...correction means which corrects input-output characteristic data..., based on the environment information.

Claim 2:

Case No. 10/201,775

Claim 1:

An environment-compliant image display system which corrects an image...correction means which corrects input-output characteristic data..., based on the environment Information.

Claim 2:

...wherein the correction means...
corrects the input-output
characteristic data by performing
a predetermined calculation using
parameters that differ between a
lower grayscale range and a
grayscale range other than the
than the lower grayscale range.

Claim 3:

...wherein the correction means...,
and a brightness value for an ideal
environment.

Claim 4:

...wherein the correction means
performs gamma correction...

Claim 5:

...wherein the correction means
corrects color modification information...
within the environmental information.

Claim 6:

...wherein the color modification
information is a three-dimensional

...wherein the correction means...
corrects the input-output
characteristic data by performing
a predetermined calculation using
parameters that differ between a
lower grayscale range and a
grayscale range other than the
than the lower grayscale range.

Claim 5:

...wherein the correction means...,
and a brightness value for an ideal
environment.

Claim 6:

...wherein the correction means
performs gamma correction...

Claim 7:

...wherein the correction means
corrects color modification information...
within the environmental information.

Claim 8:

...wherein the color modification
information is a three-dimensional

look-up table.

Claim 7:

An environment-compliant image display system which corrects an image,... a correction section which corrects input-output characteristic data..., the correction being in such a manner as to increase an output value in at least a lower grayscale range..., based on the environmental information.

look-up table.

Claim 9:

An environment-compliant image display system which corrects an image,... a correction section which corrects input-output characteristic data..., the correction being in such a manner as to increase an output value in at least a lower grayscale range..., based on the environmental information.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 8-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-19 of copending Application No. 10/201,775. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 8-13 are drawn to "A program embodied on an information storage medium... the program for correction an image, based on environmental information..." and claim 12-19 of the copending Application No. 10/201,775 are drawn to "A program causing a computer which performs correction of an image..., based on environmental information...". Therefore, based on the underlined difference, it is obvious to a person of ordinary skill in the art to recognize that "an information storage medium" can be read on "a computer" and vice versa...since claim 8, line 5, also recites "the program implementing in a computer".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deguchi et al (6,480,202) in view of Hush et al (5,956,004).

Regarding claim 1, Deguchi et al disclose (Figs. 6-11) an environment-compliant image display system which corrects an image; the image display system comprising: correction means (Fig. 8, image processing section 100) which corrects input-output characteristic data for a display means (monitor 103), the correction being in such a manner as to correct color RGB data, contrast data, and brightness information, based on the environmental information (ambient light input section 101). See column 6, line 57 to column 7, line 58.

The only difference between the disclosure of Deguchi et al and the claimed invention is that the claim 1 requires the correction of grayscale range when the environment is affected by ambient light.

However, it is obvious to a person of ordinary skill in the art to realize that brightness and contrast adjustment, as taught by Deguchi, will also adjust the grayscale range of the pixels of the display screen.

Furthermore, Hush et al (5,956,004) disclose (Figs. 1-4) the correction of brightness and grayscale range based on the detection of ambient light. See column 3, line 60 to column 4, line 56; and column 6, lines 28-46. It is obvious to the person of ordinary skill in the art to use the brightness and grayscale correction circuit in a display system of Hush into the environment-compliant image display system of Deguchi et al to adjust the grayscale range of the displayed image and provide a sharp contrast to the display device in different ambient lighting condition.

Regarding claim 2, Hush et al further disclose (Figs. 4A-4C) different ranges of grayscale levels. For example a lower grayscale range is the minimum and other grayscale range is the maximum.

Regarding claim 7, note the rejection as set forth above with respect to claim 1.

Regarding claims 8 and 9, Deguchi further discloses (Fig. 6) a computer display system. Please also note the rejection as set forth above with respect to claims 1 and 2

Allowable Subject Matter

Claims 3-6 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Yoon et al (5,642,172) disclose an image compensation system based on an exterior environment.

-Helms (5,952,992) discloses a brightness control circuit based on the ambient light photo detector.

-George (6,297,859) discloses a projection display includes a photo sensor disposed adjacent to the display screen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUU MATTHEW whose telephone number is (703) 305-4850. The examiner can normally be reached on 9 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAZAVI MICHAEL can be reached on (703) 305-4713. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

M. Luu
April 20, 2003

A handwritten signature in black ink, appearing to read 'Matthew Luu', with a large, stylized initial 'M' and a long, sweeping underline.

MATTHEW LUU
PRIMARY EXAMINER